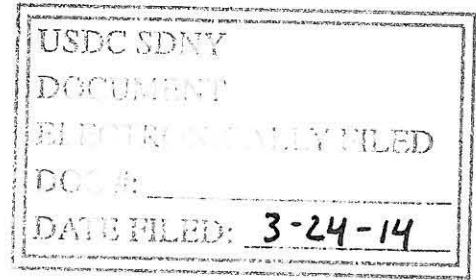


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



-----X
Billy James SIMS,

Plaintiff,

-against-

Teri WOODS, et al.,

Defendant.
-----X

No. 12 Civ. 202 (PAC) (GWG)

**ORDER ADOPTING REPORTS
& RECOMMENDATIONS**

HONORABLE PAUL A. CROTTY, United States District Judge:

In this copyright infringement case, *pro se* Plaintiff Billy James Sims moved for default judgment under the Second Amended Complaint against two defendants: InfraRead Publishing, LLC (“InfraRead”) and Leon Blue, Jr. (“Blue”). (Dkt. 32.) On July 22, 2013 Magistrate Judge Gabriel W. Gorenstein issued a Report and Recommendation (“R&R”) that the motion be denied on the grounds that there was no proof of service for the Second Amended Complaint, which asserted a new claim for relief. (Dkt. 33.) The R&R noted, however, that Sims was free to move for default judgment on the prior Amended Complaint as against those defendants.

On August 27, 2013, Sims took the suggestion and moved for default judgment under the Amended Complaint. (Dkt. 34.) On September 27, Magistrate Judge Gorenstein issued an order stating that the motion papers were insufficient “because they do not provide a basis for any award of damages.” (Dkt. 40.) That order directed Sims to “file Proposed Findings of Fact and Conclusions of Law concerning all damages no later than October 31, 2013.” Sims failed to do so by that date or at any other time.

In light of this failure, Magistrate Judge Gorenstein issued another order on December 6 directing Sims to file an affidavit by December 20 “explaining why this action should not be dismissed for failure to prosecute.” (Dkt. 42.) Sims failed to respond by that date, and indeed he has filed no other papers in this case since Magistrate Gorenstein’s order of September 27, 2013.

As a result, Magistrate Judge Gorenstein issued a second R&R on January 10, 2014, recommending that the Court (1) deny Sims’s motion for default judgment under the Amended Complaint and (2) dismiss all claims against InfraRead and Blue with prejudice. (Dkt. 43.)

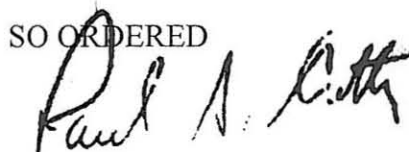
Since both R&Rs gave Sims notice of his right to object within 14 days, and he has not done so, the Court reviews the record for clear error. *See Martinson v. U.S. Parole Comm’n.*, 02-CV-4913, 2005 WL 1309054, at *3 (S.D.N.Y. June 1, 2005). The Court finds no clear error in the R&Rs, which are cogent and well reasoned. Sims was repeatedly given opportunities and instructions on how to cure the defects that Magistrate Judge Gorenstein identified, and he failed to do so.

CONCLUSION

For the foregoing reasons, the Court adopts the R&Rs of July 22, 2013 and January 10, 2014 in their entirety. (Dkts. 33, 43.) Accordingly, the Court DENIES Plaintiff’s two motions for default judgments (Dkts. 32, 34) and DISMISSES Plaintiff’s claims against Blue and InfraRead with prejudice. Plaintiff’s claims against other defendants are pending. The reference to Magistrate Judge Gabriel W. Gorenstein is continued.

Dated: New York, New York
March 24, 2014

SO ORDERED



PAUL A. CROTTY
United States District Judge

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